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 20 UBER TECHNOLOGIES, INC., RASIER, LLC,
 21 And RASIER-CA, LLC

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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IN RE: UBER TECHNOLOGIES, INC.,
 PASSENGER SEXUAL ASSAULT
 LITIGATION

This Document Relates to:

ALL ACTIONS

Case No. 3:23-md-03084-CRB (LJC)

**REPLY IN SUPPORT OF MOTION FOR
 ENFORCEMENT OF THE PROTECTIVE
 ORDER**

Judge: Hon. Lisa J. Cisneros
 Date: August 28, 2025
 Time: 10:30 a.m.
 Courtroom: G – 15th Floor

1 Uber’s Motion for Enforcement of the Protective Order (ECF 3695, the “Motion”) seeks a
 2 certification *from each and every MDL Plaintiff’s firm*—all of whom are subject to this Court’s Protective
 3 Order—that they were not involved in communicating Protected Material to the *New York Times*, and that
 4 they have no knowledge of who was involved. The three MDL Leadership firms (Girard Sharp, Chaffin
 5 Luhana, and Peiffer Wolf) have already agreed to provide such a certification. Premo-Hopkins Reply
 6 Decl., ¶ 7. So far as Uber understands it, none of the other 34 MDL Plaintiffs’ firms have agreed to provide
 7 the certification. *Id.* ¶ 19.

8 On August 25, MDL Leadership also indicated that they would not coordinate with the other firms
 9 to obtain such certifications.¹ *Id.* ¶¶ 9, 14–15, Ex. 10. Before Uber filed its Motion on August 13, three
 10 firms collectively representing over 1,000 Plaintiffs in the MDL—Levin Simes, Williams Hart &
 11 Boundas, and Cutter Law—had expressly told Uber’s counsel that they refused to provide a certification
 12 or to do anything further related to the *Times* article. *Id.* ¶ 16, Ex. 11. Their position is concerning. If they
 13 know nothing and were not involved in providing confidential protected information, it is straightforward
 14 to conduct the investigation and make the certification.

15 Although MDL Leadership parties and Uber were able to reach an agreement whereby the three
 16 MDL leadership firms agreed to the certification language attached in Exhibit A, that agreement only
 17 applied to the three Leadership firms. Uber’s motion and this dispute is about the refusal of MDL
 18 Plaintiffs’ firms outside MDL Leadership—including some MDL Plaintiffs’ firms collectively
 19 representing over 1,000 Plaintiffs (well in excess of “a handful of MDL cases,” Opp’n at 1)—to provide
 20 the requested certification. That dispute urgently needs to be addressed by a Court order.

21 Accordingly, Uber seeks an order from this Court requiring all 34 MDL Plaintiffs’ firms, as well
 22 as the three MDL Leadership firms, to provide by next Tuesday, September 2, 2025, the certification that
 23 the three MDL Plaintiffs’ Leadership firms agreed to provide on August 21.² Premo-Hopkins Reply Decl.,
 24 ¶ 7. That certification is as follows:

25
 26 ¹ It is unclear whether Lead Counsel have also committed to providing certifications from the PSC
 27 firms, given they later disclaimed any willingness to coordinate.

28 ² Although those three MDL Plaintiffs’ Leadership firms agreed to provide the certifications in a
 29 phone conversation on August 21, Uber has not yet received them. Premo-Hopkins Reply Decl., ¶ 7.

1. I contacted each employee, contractor, consultant or agent (including expert witnesses)
 2 working with [INSERT FIRM NAME HERE], as well as any client who, to best of my
 3 knowledge and based on a reasonable investigation, had access to the compilation of sealed
 4 documents/exhibits (or a significant subset thereof) submitted in connection with Plaintiffs'
 5 summary judgment opposition in the JCCP. Each of the individuals confirmed to me they did
 6 not share or in any way provide access, directly or indirectly, to any of the documents
 7 referenced in the Article to the *New York Times* or its agents, either directly or indirectly. I did
 8 not contact consultants, contractors, agents, or experts that I knew were contacted by another
 9 law firm.

10a. I do not have any knowledge or information relating to the identity of any person, entity or
 11 organization that was involved in any way—either directly or indirectly—in sharing
 12 confidential information with the New York Times.

13 or

14b. The investigation described in paragraph 1 revealed information concerning the source of this
 15 unauthorized disclosure to the New York Times [and then describe the circumstances of the
 16 disclosure].

17 I. ARGUMENT

18 A. The Protective Order Applies to All Counsel in the MDL.

19 The Protective Order entered by this court is “*binding upon the Parties to this action, upon their*
 20 *attorneys, and upon the Parties’ [enumerated agents].*” ECF No. 176 ¶ 12.4 (emphasis added). “The
 21 Parties, their attorneys and employees of such attorneys, and [their agents] each expressly stipulates to the
 22 personal jurisdiction of this Court for the purpose of any proceeding brought by a Party to this Action to
 23 enforce this Stipulation and Protective Order.” *Id.* Thus, there is no basis for limiting the reach of the the
 24 Protective Order to only MDL Lead Counsel or only the PSC.

25 Nor is there any requirement that Uber must seek relief in the JCCP to the extent that counsel and
 26 issues involved in the two litigations overlap. A violation of its Protective Order is a serious matter for
 27 any Court to confront, and the Court should not ignore its obligation just because another Court may also
 28 have jurisdiction over some of the same parties and issues. Uber chose the MDL Court in which to bring

1 its Motion for a number of reasons—including the greater number of plaintiffs and plaintiffs' firms in this
 2 proceeding—2,532 (434 new in the last 90 days) versus 763 plaintiffs (78 new in the last 90 days) and 47
 3 versus 41 firms, this Court's recent experience dealing with a previous protective order violation issue,
 4 ECF No. 3708, and the fact that the JCCP Court is preparing for an imminent Uber bellwether trial on
 5 September 8 and has expressed its preference to focus primarily on Uber matters related to that trial.

6 **B. The Court Should Require Certifications From All Plaintiffs' Firms in the MDL.**

7 Much of Plaintiffs' response focuses on the supposed impropriety of seeking certifications from
 8 every MDL Plaintiffs' firm. But the firms that are most willing to voluntarily provide certifications may
 9 be the ones that are least likely to have violated the Protective Order. Other firms—including some firms
 10 that have refused to provide certifications—should not be permitted to hide behind those firms that are
 11 willing to provide the certifications voluntarily.

12 In this regard, on August 1, 2025, Uber wrote to Plaintiffs' counsel—including MDL Leadership
 13 and JCCP Leadership counsel from Levin Simes (379 cases in the MDL), Williams Hart & Boundas (458
 14 cases in the MDL), and Cutter Law (195 cases in the MDL)—asking that they “*certify by Monday, August
 15 4 that they, or others at their firm, were not involved in disclosing confidential information to the New
 16 York Times and have no knowledge of how the New York Times came into possession of the information
 17 referenced.*” 8/13/25 Premo-Hopkins Decl. Ex. 4.

18 The Williams Hart firm responded on August 4: “I've spoken with my co-counsel in the JCCP
 19 leadership, and none of us *have any personal knowledge* of any breach of the Protective Order. If you
 20 have any solid evidence, we'll be happy to investigate further.” *Id.* Ex. 6 (emphasis added). The Levin
 21 Simes and Cutter firms purported to “confirm” on August 5 and 6 that neither their “law firms nor anyone
 22 acting at [their] direction or on [their] behalf communicated confidential information to the New York
 23 Times.” *Id.* Exs. 8, 11.

24 But none of these responses answered Uber's core inquiry—whether the firms had any “*knowledge
 25 of how the New York Times came into possession of the information.*” *Id.* Ex. 4. Importantly, the
 26 responses also do not appear to have been based on any actual investigations. For example, Williams Hart
 27 Firm's use of the term “personal knowledge” seems deliberate. This raises the question: what information
 28 “not based on personal knowledge,” if any, did they have? Moreover, Mr. Levin stated only that he “d[id]

1 not believe" anyone at Levin Simes has communicated with the *Times* at all, and that "no one would, or
 2 has, communicated confidential information to the Times." *Id.* Ex. 8 (emphasis added). By contrast, Uber
 3 and its own law firms conducted investigations and certified to the outcome of such investigations (as
 4 described in the Motion and the declarations attached to the Motion). Importantly, Uber's outside counsel
 5 also investigated whether communications with the Times could have occurred through direct or indirect
 6 means, including through disclosures from experts.

7 On August 12, the Williams Hart firm told Uber that it would not provide Uber's requested
 8 certification: "We don't believe there is anything else to discuss on that front. The leadership firms have
 9 all already responded to your prior emails and requests." Premo-Hopkins Reply Decl. Ex. 11. Moreover,
 10 in a meet and confer call on August 13, attorneys from Williams Hart, Levin Simes, and Cutter Law all
 11 made unequivocally clear that they would not provide Uber's requested certification. *Id.*, ¶ 19.

12 The MDL Plaintiffs' Leadership firms, by contrast, reached an agreement with Uber to provide
 13 the requested certification. *Id.*, ¶ 7. Thus, the certification currently proposed by Uber (attached as Exhibit
 14 A) differs slightly from what it initially proposed in its Motion. *See* 8/13/25 Certification of Investigation
 15 Facts, ECF 3695-31 at 3. That is because the current certification is the one to which MDL Plaintiffs'
 16 Leadership firms ultimately agreed (and addresses some of the concerns they raise, Opp'n at 6-7).³

17 Uber also gathered a list of 34 non-leadership firms and provided it to MDL Leadership firms,
 18 asking them to coordinate the requested certification. Premo-Hopkins Reply Decl. Ex. 6. But the MDL
 19 Leadership firms have now declined to coordinate certifications from non-leadership plaintiffs' firms,
 20 stating: "We did not state we would undertake to contact them [non-leadership firms] individually [to
 21 provide the requested certification]." *Id.* Ex. 10. Thus, Uber respectfully asks this Court to order MDL
 22 non-leadership firms to conduct appropriate investigations and provide the same certifications that MDL
 23 Leadership has agreed to provide. Ex. A.

24 Plaintiffs suggest that Uber has not shown that a violation of the Protective Order occurred. Opp'n
 25 at 3. But Uber has shown much more than mere "suspicions" of a violation. The first sentence of the *Times*

26 ³ As argued throughout, Uber disagrees with Plaintiffs' criticism that its proposal addresses an
 27 "[o]verbroad set of law firms." Opp'n at 6. With respect to Plaintiffs' request that the Court should
 28 decide whether certifications are to be submitted to the Court or just to counsel, Uber proposes that
 the certifications be filed with the Court, just as Uber filed its own certifications.

1 article references the “sealed” records to which the *Times* had access, which confirms that a violation of
 2 the Protective Order occurred, as Uber more thoroughly detailed in its opening brief. The sealed and
 3 confidential nature of the records was again revealed in the podcast with the NYT reporter that followed
 4 the article’s launch (available at <https://www.nytimes.com/2025/08/08/podcasts/the-daily/uber-sexual-assault.html?showTranscript=1> (“Obviously, I can’t say how I got this information but over the course
 5 of this reporting, I was able to get my hands on literally thousands of pages of internal company
 6 documents. These are emails. They are Slack messages. They are PowerPoint presentations. They are
 7 reports and other documents. *Hundreds of these documents have been filed in court under seal.*.”)
 8 (emphasis added)). Moreover, contrary to Plaintiffs’ suggestion, Opp’n at 4-5, the fact that an Uber
 9 witness was questioned *about a particular incident* that occurred in connection with Uber *at her deposition*
 10 *a mere week before the Times reporter sent an email describing the same incident* is certainly highly
 11 suggestive as well.

13 In conclusion, requiring certifications from only the MDL Leadership would fail to address the
 14 serious violations of the Protective Order raised by Uber in the Motion. To address those violations of the
 15 Protective Order, all MDL Plaintiffs’ firms must provide the same certification. Those certifications will
 16 enable both Uber and the Court to either (1) confirm that none of those 34 non-leadership firms were
 17 involved in sharing sealed information to the *New York Times* or have knowledge of who was involved,
 18 or (2) if any of those 34 firms were involved in the sharing of the sealed information, identify exactly how
 19 and by whom such information was shared. It is vital to the integrity of the judicial system that the Court
 20 require a thorough and complete investigation and certification process by *all* Plaintiffs’ counsel, not just
 21 the Leadership firms. All counsel are subject to the Court’s Protective Order. And all counsel with access
 22 to the JCCP summary judgment sealed opposition materials⁴ had the opportunity to share those materials,
 23 directly or indirectly, with the *New York Times*. Entering such an order and requiring investigation and
 24

25 ⁴ Several MDL Counsel had access to the JCCP summary judgment opposition exhibits directly through
 26 File&Serve, including Clarkson Law Firm; Girard Sharp; Levin Simes; Nachawati Law Group; Peiffer
 27 Wolf; Pulaski Law Firm; Simon Greenstone Panatier; Slater Slater Schulman; Walkup, Melodia, Kelly
 28 & Schoenberger; and Williams Hart & Boundas. It is Uber’s understanding that additional MDL
 counsel had access to the materials through depositories maintained by MDL Leadership that they had
 mentioned in correspondence with Uber, or possibly through other means.

1 certification will ensure that any and every firm involved in violating the Protective Order is identified
2 and held accountable for that violation.

3 The integrity of the Court process and its orders are at stake. The judicial process must be
4 protected and upheld. For all these reasons, Uber asks that all MDL Plaintiffs' firms be required to conduct
5 the same investigation and provide the same certification that the MDL Leadership firms have agreed to
6 provide (attached as Exhibit A hereto).

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1 DATED: August 27, 2025

Respectfully submitted,

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